

## EXAMPLES OF IMPACT OF CIANA

If enacted, CIANA will trounce the laws, public policies and judicial decisions of the states, and will have a different impact in different states depending both on the existing parental involvement laws of that state (if any) and on the state-of-residence of the patient seeking an abortion.

### California Minor Living in New York

Neither the State of New York nor the State of California requires a minor to involve her parents in her decision to have an abortion. Under CIANA, however, the public policies of these states that respect the right of adolescents to access abortion services confidentially would be overridden by federal law. Thus, if a 17 year old California resident attending college in New York State was seeking an abortion, CIANA would require the New York physician first to notify the patient's parent *in person* 24 hours prior to performing the abortion. If the minor's parent could not physically come to the clinic – because, for example, they were in California – CIANA would require the physician to wait over three days after sending notice to the parent in the mail. This federally-imposed notice requirement would apply *even if the parent consented* to the abortion in writing or over the phone, and even if the patient was experiencing a medical emergency that would threaten her health if the abortion were not performed immediately. Moreover, although the Supreme Court has made clear that any mandatory parental involvement law must allow a minor a way to bypass this requirement -- through a court ruling that the minor is sufficiently mature to make the abortion decision or that the proposed abortion would be in her best interest – under CIANA, the California minor would have no such bypass alternative available to her if she felt she was unable to involve her parent for some reason. This is because the only bypass provision available to a minor under CIANA is that of her home state, and California – having no parental involvement law – has no bypass procedure available to minors. Although CIANA has an exception for a minor that declares herself to be the victim of physical or sexual abuse or neglect, this exception will be of limited use as minors are reluctant to report abuse because of fear of retaliation from the abusive parent. Minors may fear abuse occurring for the first time as a result of the notice; and there are other serious reasons, such as fear of emotional abuse, that would make it unwise for a minor to notify a parent.

### California Physicians Are Also Burdened By CIANA

CIANA would place similar burdens on California physicians providing abortions for minors from neighboring Oregon and Nevada. These providers would be forced to give actual in-person notice to the parent of a minor from another state and then to wait 24 hours before providing the abortion. No judicial bypass is available to the minors from Oregon or Nevada. Parental notification is required despite the fact that none of these states -- California, Oregon, or Nevada – require parental notice prior to performing an abortion. CIANA vitiates the laws and public policies of these States.

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## **CIANA Tramples Upon the Laws, Policies and Judicial Decisions of North Carolina**

North Carolina requires a minor to have the consent of one parent or grandparent with whom the minor resides prior to obtaining an abortion. If a minor cannot involve a parent, she can go to a North Carolina court to seek a bypass of this requirement if the court determines she is sufficiently mature to make the decision on her own or the abortion would be in her best interest. Under CIANA, however, this policy would be severely undermined. If a minor who is a resident of another state comes to an abortion provider in North Carolina she and her physician would be subjected to whole separate set of federal rules, rules that contradict those established by the State of North Carolina.

If, for example, a resident of Virginia was in college in North Carolina and sought an abortion, the North Carolina physician would have to first provide notice in person to the minor's parent 24 hours prior to providing the abortion. This notice would be required *even if the parent already gave consent under North Carolina law*. Notice to the minor's grandparent would also not suffice. Most unbelievable of all, even if a North Carolina court ruled that the minor was sufficiently mature to make the abortion decision, or that the abortion without parental consent was in the minor's best interest, *the North Carolina physician would still be required to notify that minor's parent*. Thus, CIANA in effect overrides the public policies, laws, and judicial decisions of the State of North Carolina.

CIANA would also greatly burden the Virginia minor seeking the abortion in North Carolina. Both Virginia and North Carolina require the consent of one parent – or in the case of North Carolina, a parent or a grandparent with whom the minor resides – yet the judicial decree of a single court would no longer be enough. The only way the minor could avoid the federal requirement of mandatory notice to her parent would be first to obtain a judicial bypass from a Virginia court. In order to satisfy North Carolina law, however, she would then have to go through yet another judicial proceeding in North Carolina to obtain a bypass of the North Carolina parental consent law. Thus, such a minor would be subjected to the delays and burdens of *having to obtain two judicial bypasses*.

## **CIANA Overrides the Laws and Public Policies of Maryland**

It is the public policy of the State of Maryland to trust the professional judgment of the physician to determine whether a minor is sufficiently mature to make the decision to have an abortion or whether notice to a parent of his or her daughter's decision to have an abortion would be dangerous, or otherwise not be in the minor's best interest. Md. Health Code § 20-103. CIANA tramples upon this clearly-articulated state policy and replaces it instead with the preferred federal policy of Congress. Under CIANA, a Maryland physician would no longer be able to assess and treat his or her patient pursuant to Maryland law, if the patient happened to be a resident of another state.

For example, a Maryland physician has a 17 year-old patient who happens to be a *resident of the District of Columbia living in Maryland and attending college at the University of Maryland*. The physician, in his professional judgment, believes his patient is mature and capable of giving informed consent to an abortion. Under

Maryland law, the physician can perform the abortion on the patient without notifying a parent. Under CIANA, however, the physician would be committing a federal crime unless he first notified the patient's parent in person and then waited 24 hours before performing the abortion, or – after making "reasonable efforts" to notify the parent in person -- notified the parent by mail and then waited over three days before performing the abortion. Clearly, the public policies reflected in CIANA run counter to and eviscerate Maryland's laws in this instance.